

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NORTH DAKOTA**

Chief Mad Bear Lineal Descendants, et. al.,)
and Jeff McLaughlin, Sr.,)

Plaintiffs,)

vs.)

Col. John Henderson, P.E. Distr. Cmdr;)
Army Corps of Engineers (ACOE); Dakota)
Access Pipeline (DAPL) a/k/a Energy)
Transfer Partners, LLC; and Kelcey)
Warren, CEO,)

Defendants.)

**ORDER ADOPTING REPORT
AND RECOMMENDATION**

Case No. 1:16-cv-94

On April 27, 2016, Jeff McLaughlin, Sr., filed an “Application to Proceed in District Court without Prepaying Fees or Costs.” See Docket No. 1. Attached to the application was a proposed complaint. See Docket No. 1-1. In McLaughlin’s proposed complaint, he asserts ownership of the Missouri River and surrounding lands on behalf of Chief Mad Bear’s lineal descendants, objects to implementation of the Pick-Sloan Plan and the U.S. Army Corps of Engineers’ management of the Missouri River system, and requests that the Court temporarily enjoin construction of the Dakota Access Pipeline, pending a hearing to address “environmental injustices.” See Docket No. 1-1.

On May 11, 2016, Magistrate Judge Charles S. Miller, Jr. entered an Order and Report and Recommendation. See Docket No. 3. In Judge Miller’s Order and Report and Recommendation, he granted McLaughlin’s application to proceed *in forma pauperis* (Docket No. 1) and directed the Clerk’s office to file McLaughlin’s proposed complaint. See Docket Nos. 2 and 3. Judge Miller went on to review and analyze McLaughlin’s complaint, and he recommended that the action be dismissed without prejudice for failure to state a cognizable claim. See Docket No. 3.

Judge Miller further recommended that, insofar as McLaughlin was requesting a temporary restraining order, the request be denied. The parties were given fourteen days to file any objections to the Report and Recommendation. On May 20, 2016, McLaughlin filed an objection to Judge Miller's Report and Recommendation. See Docket No. 4.

The Court has carefully reviewed Judge Miller's Report and Recommendation, the objection to the Report and Recommendation, the relevant case law, and the entire record, and finds the Report and Recommendation to be persuasive and McLaughlin's objection to be unpersuasive. McLaughlin has failed to state a cognizable claim, and he has not set forth a sufficient factual or legal basis for the issuance of any restraining order, *ex parte* or otherwise. Accordingly, the Court **ADOPTS** the Report and Recommendation (Docket No. 3) in its entirety and **ORDERS** the action to be **DISMISSED** without prejudice for failure to state a cognizable claim. Further, insofar as McLaughlin is requesting a temporary restraining order, the request is **DENIED**.

IT IS SO ORDERED.

Dated this 26th day of May, 2016.

/s/ Daniel L. Hovland
Daniel L. Hovland, District Judge
United States District Court